

REFERENCE TITLE: innovation Arizona; board; fund

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2623

Introduced by
Representatives Konopnicki, Aguirre A, Lopes: Downing

AN ACT

AMENDING TITLE 41, CHAPTER 10, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 5;
AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING
SECTION 41-3016.01; RELATING TO THE INNOVATION ARIZONA.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 41, chapter 10, Arizona Revised Statutes, is amended
3 by adding article 5, to read:

4 ARTICLE 5. INNOVATION ARIZONA

5 41-1551. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "BOARD" MEANS THE INNOVATION ARIZONA BOARD OF DIRECTORS.

8 2. "ELIGIBLE APPLICANT" MEANS AN INDIVIDUAL OR PUBLIC OR PRIVATE
9 ORGANIZATION, CORPORATION OR INSTITUTION IN THIS STATE THAT IS ENGAGED IN
10 MANUFACTURING, RESEARCH AND DEVELOPMENT OR TECHNOLOGY DEVELOPMENT.

11 3. "EMERGING TECHNOLOGY INDUSTRY" MEANS ANY OF THE FOLLOWING
12 INDUSTRIES:

13 (a) ENVIRONMENTAL OR ECOLOGICAL TECHNOLOGY.

14 (b) NANOTECHNOLOGY.

15 (c) LIFE SCIENCES.

16 (d) SEMICONDUCTORS AND ELECTRONICS.

17 (e) AGRICULTURE TECHNOLOGY.

18 (f) COMPUTER SOFTWARE AND SYSTEMS.

19 (g) DEFENSE, AVIONICS AND AEROSPACE.

20 (h) ENGINEERING SERVICES, RESEARCH AND TESTING.

21 (i) ELECTRONICS AND SEMICONDUCTORS.

22 (j) HIGH TECHNOLOGY INSTRUMENTS, INCLUDING OPTICS.

23 (k) TELECOMMUNICATIONS AND INFORMATION TECHNOLOGY.

24 (l) TRANSPORTATION AND LOGISTICS.

25 (m) OTHER INDUSTRIES THAT ARE DETERMINED THROUGH ECONOMIC ANALYSIS AND
26 THAT ARE RECOMMENDED BY THE BOARD AND APPROVED BY THE GOVERNOR.

27 4. "FINANCIAL ASSISTANCE" MEANS GRANTS PROVIDED BY THE BOARD FOR
28 QUALIFIED PROJECTS.

29 5. "FUND" MEANS THE INNOVATION ARIZONA FUND.

30 6. "QUALIFIED PROJECT" MEANS EITHER:

31 (a) A RESEARCH AND DEVELOPMENT PROJECT THAT IS IN AN EMERGING
32 TECHNOLOGY INDUSTRY, THAT IS SUBMITTED BY AN ELIGIBLE APPLICANT AND THAT HAS
33 THE POTENTIAL TO RESULT IN A PRODUCT OR SERVICE SUITABLE FOR PRODUCTION OR
34 MANUFACTURING.

35 (b) A PROJECT TO ATTRACT OR RETAIN SCIENTIFIC RESEARCHERS AND HIGHER
36 EDUCATION FACULTY.

37 41-1551.01. Innovation Arizona; board; composition; executive
38 director

39 A. INNOVATION ARIZONA AND THE INNOVATION ARIZONA BOARD OF DIRECTORS
40 ARE ESTABLISHED. THE BOARD CONSISTS OF THE FOLLOWING THIRTEEN MEMBERS WHO
41 ARE APPOINTED BY THE GOVERNOR:

42 1. A MEMBER OF THE COMMERCE AND ECONOMIC DEVELOPMENT COMMISSION.

43 2. A MEMBER OF THE ARIZONA BIOMEDICAL RESEARCH COMMISSION.

44 3. A PRESIDENT OF A PUBLIC OR PRIVATE INSTITUTION OF HIGHER EDUCATION.

45 4. THE PRESIDENT OF THE ARIZONA BOARD OF REGENTS.

1 5. THE EXECUTIVE DIRECTOR OF INNOVATION ARIZONA.
2 6. EIGHT MEMBERS OF THE PRIVATE SECTOR WHO HAVE EXPERIENCE IN ONE OR
3 MORE OF THE FOLLOWING AREAS:
4 (a) ENVIRONMENTAL OR ECOLOGICAL TECHNOLOGY.
5 (b) NANOTECHNOLOGY.
6 (c) LIFE SCIENCES.
7 (d) SEMICONDUCTORS AND ELECTRONICS.
8 (e) AGRICULTURE TECHNOLOGY.
9 (f) COMPUTER SOFTWARE AND SYSTEMS.
10 (g) DEFENSE, AVIONICS AND AEROSPACE.
11 (h) ENGINEERING SERVICES, RESEARCH AND TESTING.
12 (i) ELECTRONICS AND SEMICONDUCTORS.
13 (j) HIGH TECHNOLOGY INSTRUMENTS, INCLUDING OPTICS.
14 (k) TELECOMMUNICATIONS AND INFORMATION TECHNOLOGY.
15 (l) TRANSPORTATION AND LOGISTICS.
16 (m) NONPROFIT ORGANIZATIONS THAT CONDUCT RESEARCH AND DEVELOPMENT.
17 B. SEVEN MEMBERS OF THE BOARD CONSTITUTE A QUORUM FOR THE PURPOSE OF
18 CONDUCTING BUSINESS. AN AFFIRMATIVE VOTE OF THE MAJORITY OF MEMBERS PRESENT
19 AT ANY MEETING IS SUFFICIENT FOR ANY ACTION TO BE TAKEN.
20 C. MEMBERS OF THE BOARD SERVE TWO YEAR TERMS BEGINNING AND ENDING ON
21 THE THIRD MONDAY IN JANUARY, EXCEPT FOR MEMBERS WHO ARE APPOINTED PURSUANT TO
22 SUBSECTION A, PARAGRAPHS 1 THROUGH 5 OF THIS SECTION. MEMBERS WHO ARE
23 APPOINTED PURSUANT TO SUBSECTION A, PARAGRAPH 6 OF THIS SECTION MAY SERVE
24 CONSECUTIVE TERMS OF OFFICE.
25 D. MEMBERS OF THE BOARD ARE NOT ELIGIBLE TO RECEIVE COMPENSATION BUT
26 ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE 38, CHAPTER 4,
27 ARTICLE 2.
28 E. THE GOVERNOR SHALL APPOINT AN EXECUTIVE DIRECTOR FOR INNOVATION
29 ARIZONA WHO SHALL BE CHAIRPERSON OF THE BOARD. THE EXECUTIVE DIRECTOR IS
30 ELIGIBLE TO RECEIVE COMPENSATION PURSUANT TO SECTION 38-611. THE EXECUTIVE
31 DIRECTOR MAY USE THE SERVICES OF EMPLOYEES OF THE DEPARTMENT AND SHALL
32 DETERMINE THE TIMES AND CONDITIONS OF USE OF DEPARTMENT EMPLOYEES IN
33 COOPERATION WITH THE DIRECTOR OF THE DEPARTMENT.
34 41-1551.02. Powers and duties of board; confidentiality of
35 information; reports; limitation of liability
36 A. THE BOARD SHALL:
37 1. PROVIDE FOR THE ADMINISTRATION OF THE FUND.
38 2. ISSUE AND MAKE REPORTS AS REQUIRED BY LAW.
39 3. ESTABLISH APPLICATION FEES.
40 4. USE THE SERVICES OF PROFESSIONALS IN THE FIELD OF SCIENCE, RESEARCH
41 AND DEVELOPMENT, TECHNOLOGY OR ECONOMIC DEVELOPMENT TO CONDUCT TECHNICAL PEER
42 REVIEWS OF APPLICATIONS UNDER CONTRACTUAL ARRANGEMENTS. THESE CONTRACTS
43 SHALL BE ENTERED INTO PURSUANT TO CHAPTER 23 OF THIS TITLE.

1 B. THE BOARD MAY:

2 1. ASSIST THE DEPARTMENT IN THE COORDINATION OF THE INDEPENDENT
3 EFFORTS OF PRIVATE ENTERPRISE INVOLVED IN SCIENTIFIC OR TECHNOLOGICAL
4 RESEARCH.

5 2. ADOPT RESOLUTIONS AND ACT ON THOSE RESOLUTIONS.

6 3. PROVIDE FINANCIAL ASSISTANCE TO QUALIFIED PROJECTS.

7 4. ACCEPT GIFTS OR GRANTS AND ENTER INTO CONTRACTS OR OTHER
8 TRANSACTIONS WITH ANY FEDERAL OR STATE AGENCY, MUNICIPALITY, PRIVATE
9 ORGANIZATION OR OTHER SOURCE.

10 5. ADOPT AND USE A SEAL.

11 6. PURCHASE, ACQUIRE OR HOLD BY GRANT, GIFT, DEVISE, LEASE OR
12 OTHERWISE REAL OR PERSONAL PROPERTY OR INTERESTS IN REAL OR PERSONAL
13 PROPERTY.

14 7. IMPROVE, EMPLOY OR USE ANY REAL OR PERSONAL PROPERTY OR INTERESTS
15 IN ANY REAL OR PERSONAL PROPERTY PURCHASED, ACQUIRED OR HELD FOR THE PURPOSES
16 OF THIS ARTICLE.

17 8. SELL, CONVEY, LEASE, EXCHANGE, TRANSFER OR OTHERWISE DISPOSE OF ANY
18 OF ITS PROPERTY OR ANY INTEREST IN ITS PROPERTY, WHEREVER SITUATED.

19 9. DEVELOP POLICIES AND ADOPT RULES NECESSARY TO CARRY OUT ITS DUTIES.

20 10. DESIGNATE SUBCOMMITTEES.

21 11. WAIVE OR REDUCE APPLICATION FEES AS DEEMED APPROPRIATE BASED ON A
22 SHOWING OF FINANCIAL NEED FOR THE WAIVER OR REDUCTION.

23 12. GRANT MONIES FROM THE FUND TO QUALIFIED PROJECTS. BECAUSE OF THE
24 MATCHING MONIES REQUIREMENT, THE GRANTING OF MONIES FROM THE FUND IS EXEMPT
25 FROM THE PROCUREMENT CODE AND SOLICITATION AND AWARD OF GRANT REQUIREMENTS
26 PRESCRIBED BY CHAPTERS 23 AND 24 OF THIS TITLE.

27 C. ANY INFORMATION SUBMITTED TO OR COMPILED BY THE BOARD IN CONNECTION
28 WITH ITS WORK THAT CONCERNS THE IDENTITY, BACKGROUND, FINANCIAL STATUS,
29 MARKETING PLANS OR TRADE SECRETS OR ANY OTHER PROPRIETARY INFORMATION RELATED
30 TO PERSONS, FIRMS, ASSOCIATIONS, PARTNERSHIPS, AGENCIES, CORPORATIONS OR
31 OTHER ENTITIES IS EXEMPT FROM TITLE 39, CHAPTER 1, ARTICLE 2 AND DEEMED
32 CONFIDENTIAL AND NOT SUBJECT TO DISCLOSURE EXCEPT TO THE EXTENT THAT THE
33 PERSON OR ORGANIZATION THAT PROVIDED THE INFORMATION AND TO WHOM THE
34 INFORMATION RELATES CONSENTS TO THE DISCLOSURE.

35 D. THE EXECUTIVE DIRECTOR SHALL REPORT QUARTERLY TO THE BOARD ON THE
36 ACTIVITIES OF INNOVATION ARIZONA, INCLUDING A DETAILED ACCOUNTING OF ANY
37 EXPENDITURES MADE BY INNOVATION ARIZONA. ON OR BEFORE DECEMBER 31 EACH YEAR,
38 THE BOARD SHALL REPORT TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE
39 SPEAKER OF THE HOUSE OF REPRESENTATIVES ON THE ACTIVITIES OF INNOVATION
40 ARIZONA FOR THE PRIOR FISCAL YEAR AND SHALL PROVIDE A COPY OF THIS REPORT TO
41 THE SECRETARY OF STATE AND THE DIRECTOR OF THE ARIZONA STATE LIBRARY,
42 ARCHIVES AND PUBLIC RECORDS. THE REPORT SHALL INCLUDE A DETAILED ACCOUNTING
43 OF ANY EXPENDITURE MADE BY THE BOARD.

44 E. THE BOARD SHALL EMPLOY A CERTIFIED PUBLIC ACCOUNTANT TO CONDUCT AN
45 ANNUAL AUDIT OF THE FUND.

1 F. A MEMBER OR AGENT OF THE BOARD, THROUGH THE EXECUTION OF ANY
2 CONTRACTS, COMMITMENTS OR AGREEMENTS ISSUED PURSUANT TO THE WORK OF
3 INNOVATION ARIZONA, IS NOT PERSONALLY LIABLE UNDER THE CONTRACTS, COMMITMENTS
4 OR AGREEMENTS. A MEMBER OR AGENT OF THE BOARD IS NOT PERSONALLY LIABLE FOR
5 DAMAGES OR INJURY RESULTING FROM THE PERFORMANCE OF INNOVATION ARIZONA
6 DUTIES.

7 G. ANY CONTRACT OR AGREEMENT MADE IN VIOLATION OF THIS SECTION IS VOID
8 AND DOES NOT GIVE RISE TO ANY ACTION AGAINST INNOVATION ARIZONA.

9 41-1551.03. Eligibility for innovation Arizona assistance;
10 memorandum of understanding

11 A. THE BOARD SHALL ESTABLISH PROCEDURES FOR USE IN EVALUATING
12 APPLICATIONS OF QUALIFIED PROJECTS. THE BOARD MAY GIVE SPECIAL CONSIDERATION
13 TO PROJECTS THAT BENEFIT RURAL AREAS OF THIS STATE AND TO PROJECTS THAT ARE
14 SUBMITTED BY A GROUP CONSISTING OF MORE THAN ONE APPLICANT.

15 B. THE PROVISION OF ASSISTANCE TO A QUALIFIED PROJECT PURSUANT TO THIS
16 SECTION IS CONTINGENT ON A FINDING BY THE BOARD THAT THE QUALIFIED PROJECT IS
17 CLEARLY IN THE BEST INTERESTS OF THIS STATE, HAS THE POTENTIAL TO EXPAND OR
18 DIVERSIFY THIS STATE'S INDUSTRIAL BASE AND ECONOMY AND HAS THE POTENTIAL TO
19 RESULT IN A SUBSTANTIAL INCREASE IN HIGH QUALITY JOBS IN THIS STATE. A
20 MINIMUM OF FIFTY PER CENT OF THE TOTAL COSTS OF A QUALIFIED PROJECT SHALL BE
21 PAID BY A FUNDING SOURCE OTHER THAN THE FUND OR ANY OTHER STATE FUNDING
22 SOURCE. THESE FINDINGS SHALL BE CONTAINED IN A RESOLUTION ADOPTED BY THE
23 BOARD. THE RESOLUTION SHALL PRESCRIBE THE EVIDENCE AND REASONS SUPPORTING
24 THIS FINDING, INCLUDING:

25 1. THE TYPE, AMOUNT AND EXPECTED TIMING OF THE REALIZATION OF THE
26 ANTICIPATED ECONOMIC BENEFIT TO THIS STATE AS A RESULT OF PROVIDING
27 ASSISTANCE TO THE PROJECT.

28 2. THE CONTRIBUTION TO THE GROWTH OF EXISTING BUSINESSES AND CREATION
29 OF NEW BUSINESSES AND BUSINESS CLUSTERS THAT THE PROJECT WILL ENHANCE.

30 C. BEFORE ASSISTANCE IS PROVIDED, THE BOARD SHALL REVIEW A CREDIBLY
31 PREPARED ANALYSIS OF THE PROJECT PREPARED PURSUANT TO SECTION 41-1551.02,
32 SUBSECTION A, PARAGRAPH 4.

33 D. THE BOARD SHALL DEVELOP AN APPLICATION PROCESS AND NECESSARY
34 APPLICATION FORMS FOR USE IN CONSIDERING THE PROVISION OF ASSISTANCE FOR
35 QUALIFIED PROJECTS IN THIS STATE. THE BOARD SHALL DEVELOP PROCEDURES FOR
36 APPROPRIATE PROFESSIONAL REVIEW AND ANALYSIS OF ALL APPLICATIONS. THE
37 PROFESSIONAL REVIEW AND ANALYSIS AS TO WHETHER ASSISTANCE SHOULD BE PROVIDED
38 SHALL BE FORWARDED TO THE BOARD.

39 E. APPLICANTS THAT RECEIVE FINANCIAL ASSISTANCE SHALL ENTER INTO A
40 MEMORANDUM OF UNDERSTANDING WITH THIS STATE THROUGH THE BOARD. THE
41 MEMORANDUM SHALL CONTAIN AT LEAST ALL OF THE FOLLOWING:

42 1. PERFORMANCE STANDARDS FOR THE PROJECT AND A REQUIREMENT THAT THE
43 PROJECT SUBMIT A REPORT TO THE BOARD NO LESS THAN ANNUALLY OF THE PROJECT'S
44 PERFORMANCE IN ACHIEVING THE STANDARDS.

1 2. PROVISIONS THAT ALLOW THE STATE, THROUGH THE BOARD, TO STOP,
2 READJUST OR RECAPTURE ALL OR PART OF THE ASSISTANCE GIVEN TO THE PROJECT
3 EITHER IN FULL OR IN PART ON NONCOMPLIANCE WITH THE TERMS OF THE MEMORANDUM.

4 3. REPAYMENT OF GRANT MONIES FROM ANY PROFITS OBTAINED FROM A
5 QUALIFIED PROJECT THAT RESULT IN A PRODUCT OR SERVICE.

6 4. PROVISIONS ALLOWING THIS STATE TO USE DISCOVERIES OR INVENTIONS
7 THAT RESULT FROM A QUALIFIED PROJECT.

8 5. TERMS PROVIDING THAT, AT THE DISCRETION OF THIS STATE, THE TRANSFER
9 BY GIFT TO THIS STATE OF ALL EQUIPMENT DESIGNATED BY THIS STATE THAT WAS
10 PURCHASED WITH GRANT MONIES AWARDED BY INNOVATION ARIZONA IF THE APPLICANT
11 MOVES OUT OF STATE OR IF THE PROJECT IS COMPLETED.

12 6. OTHER TERMS, CONDITIONS AND COVENANTS AS DETERMINED APPROPRIATE BY
13 THE BOARD.

14 F. ANY INFORMATION PROVIDED PURSUANT TO AN APPLICATION SUBMITTED
15 PURSUANT TO THIS SECTION IS NOT A PUBLIC RECORD UNDER TITLE 39, CHAPTER 1,
16 ARTICLE 2, SHALL BE TREATED AS CONFIDENTIAL INFORMATION AND SHALL NOT BE
17 RELEASED WITHOUT THE EXPRESS CONSENT OF THE ENTITY COMPLETING THE
18 APPLICATION.

19 41-1551.04. Innovation Arizona fund; purpose

20 A. THE INNOVATION ARIZONA FUND IS ESTABLISHED AND SHALL BE
21 ADMINISTERED BY THE BOARD. THE BOARD SHALL DEPOSIT ALL MONIES RECEIVED BY
22 INNOVATION ARIZONA IN THE FUND.

23 B. THE BOARD SHALL USE MONIES FROM THE FUND TO PROVIDE FINANCIAL
24 ASSISTANCE PURSUANT TO SECTION 41-1551.02.

25 C. ON NOTICE FROM THE BOARD, THE STATE TREASURER MAY INVEST AND DIVEST
26 MONIES IN THE FUND AS PROVIDED BY SECTION 35-313. THE STATE TREASURER SHALL
27 CREDIT MONIES EARNED FROM INVESTMENTS TO THE FUND.

28 D. THE FUND CONSISTS OF LEGISLATIVE APPROPRIATIONS, GIFTS, GRANTS,
29 INTEREST EARNINGS, INVESTMENT EARNINGS AND REPAYMENTS FROM GRANTS AND
30 PROFITS, IF ANY.

31 E. IN ADDITION TO THE REQUIREMENTS OF SECTION 41-1551.03, SUBSECTION
32 A, A MINIMUM OF TEN PER CENT OF THE MONIES DISBURSED BY THE BOARD SHALL BE
33 USED TO PROVIDE ASSISTANCE, EITHER DIRECTLY OR INDIRECTLY, FOR QUALIFIED
34 PROJECTS THAT BENEFIT RURAL AREAS OF THIS STATE. IF THESE MONIES REMAIN
35 UNEXPENDED ON APRIL 1 OF THE FISCAL YEAR, THE UNEXPENDED AMOUNT MAY BE MADE
36 AVAILABLE TO ANY QUALIFIED PROJECT.

37 F. FOUR PER CENT OF THE MONIES IN THE FUND EACH FISCAL YEAR, NOT TO
38 EXCEED ONE MILLION DOLLARS, IS CONTINUOUSLY APPROPRIATED TO THE BOARD FOR THE
39 PURPOSES OF ADMINISTERING INNOVATION ARIZONA AND PROVIDING THE NECESSARY
40 PROFESSIONAL EVALUATION REQUIRED BY SECTION 41-1551.02, SUBSECTION A,
41 PARAGRAPH 4. THE BOARD SHALL USE THE REMAINING MONIES TO FUND FINANCIAL
42 ASSISTANCE THAT IS APPROVED BY THE BOARD IN THE AMOUNTS APPROVED BY THE
43 BOARD.

Sec. 2. Title 41, chapter 27, article 2, Arizona Revised Statutes, is amended by adding section 41-3016.01, to read:

41-3016.01. Innovation Arizona board of directors: termination
July 1, 2016

A. THE INNOVATION ARIZONA BOARD OF DIRECTORS TERMINATES ON JULY 1, 2016.

B. TITLE 41, CHAPTER 10, ARTICLE 5 IS REPEALED ON JANUARY 1, 2017.

Sec. 3. Purpose

Pursuant to section 41-2955, subsection E, Arizona Revised Statutes, the legislature establishes innovation Arizona and the innovation Arizona board of directors to provide assistance to research and development projects in emerging technology industries that have potential to result in a product or service suitable for production or manufacturing or projects to attract or retain scientific researchers and higher education faculty in this state.

Sec. 4. Initial terms of members of the board of directors of innovation Arizona

The initial members of the board of directors of innovation Arizona who are appointed from the private sector shall assign themselves by lot to terms of one or two years in office. All subsequent members serve two year terms of office. The chairperson shall notify the governor's office on appointments of these terms.

Sec. 5. Effective date

This act is effective from and after December 31, 2006.